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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,292	12/31/2001	Valery Borzenets	10467.54US01	4502
23552	7590	12/02/2003	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SUMMONS, BARBARA	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/037,292	Applicant(s) BORZENETS ET AL.	
	Examiner Barbara Summons	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-28 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5/23/03</u> | 6) <input type="checkbox"/> Other: _____ |

QUAYLE ACTION

Drawings

1. The replacement sheet(s) of drawings were received on 9/11/03. These drawings are approved.
2. It should be noted that the drawings received 12/31/01 and 9/11/03 were declared informal, and in the interest of a speedy prosecution/allowance process, Applicants are urged to submit formal drawings in response to this Office action.

Quayle Action

3. This application is in condition for allowance except for the following formal matters:

In the Claims:

In claim 5, on line 2, note that due to the change in dependency of claim 3 (i.e. from canceled claim 1 to claim 22), "the inductor" now lacks strict antecedent basis in the claim. Therefore, the Examiner suggests:

In claim 5, on line 2, changing "the inductor" to - - an inductor of the resonator - - (see claim 22, line 2).

Claims 14 and 16 now have inconsistent claim terminology because claim 16 was amended to recite "the first component" and "the second component", but claim 14 was not amended and still provides only antecedent basis for "the inductor" and "the capacitor". Either claim 14 or claim 16 must be changed to agree with the other claim.

In claim 25, on lines 1-2, "a inductor" should be - - an inductor - -.

In claim 26, on lines 1-2, "an capacitor" should be - - a capacitor - -.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

4. Claims 2-28 are allowable over the prior art of record.
5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 14, the Examiner agrees with Applicants' arguments that the prior art of record does not disclose a tuning assembly wherein a "plurality of actuators are configured to position corresponding tuning tips over a range of distances from a single resonator" (emphasis added)[see page 12, lines 18-20 of the amendment received 9/11/03]. Regarding independent claims 20, 21 and 22, each of these claims now clearly recites that the resonator has a "first component and a second component" and there is a first tuning tip and a second tuning tip associated with the first and second components. The various dependent claims are allowable at least for the same reasons as their corresponding independent claims.

Conclusion

6. It should be noted that the Examiner attempted to resolve these formal matters via telephone, but due to the holiday, was unable to receive permission for the required changes.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara Summons whose telephone number is (703) 308-4947. The examiner can normally be reached on M-Th, M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pascal can be reached on (703) 308-4909. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



bs
November 25, 2003

**BARBARA SUMMONS
PRIMARY EXAMINER**